UNITED STATES PATENT AND TRADEMARK OFFICE

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EXAMINER
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ART UNIT	PAPER NUMBER
3694	

NOTIFICATION DATE	DELIVERY MODE
09/22/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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	Application No.	Applicant(s)
Office Action Summary	10/749,696	CREVELING ET AL.
	Examiner	Art Unit	
	MARY GREGG	3694	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>09 September 2010</u>.

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-23</u> is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1-23</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a) ☐ All b) ☐ Some * c) ☐ None of:

        1. ☐ Certified copies of the priority documents have been received.

        2. ☐ Certified copies of the priority documents have been received in Application No. _____.

        3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1.   The following is a Non-Final Office Action in response to communications

received September 09, 2010. Claim 15 has been canceled. Claims 1, 3-4, 6, 14, 20

and 22 have been amended. No new claims have been added. Therefore, claims 1-14

and 15-23 are pending and addressed below.

Continued Examination Under 37 CFR 1.114

2.   A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17 (e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission has been

entered.

Response to Arguments/Amendments

3.   In the remarks the applicant argues (1) that the prior art "Lee" does not teach "fee

is not accessed to all disputed transactions" (2) that the prior art "Lee" does not teach

"fee set based on monetary value of the disputed credit transactions of the merchant

that exceeds the ratio" (3) that Lee teaches away from a threshold rations for levying

fines (4) that the prior art Richey fails to suggest or teach "assessing a fee against the

merchant for each disputed transaction that exceeds the threshold ratio" (5) that the

combination fails to teach "assessing, using the computer-based system, a fee against

the merchant for each disputed transaction involving the merchant that exceeds the

predetermined threshold ratio, in response to the merchant's ratio being at least equal to

the predetermined threshold ratio, wherein the fee is not assessed to all disputed transactions, wherein the fee is set based on a monetary value of each of the disputed credit transactions of the merchant that exceeds the predetermined threshold ratio," as recited by independent claim 1 (emphasis added) and as similarly recited by independent claims 14 and 20". (6) that dependent claims 2, 6-11, 13 and 21 depend upon claims 1, 14 and 20 and are therefore allowable due to the deficiencies of the rejections as cited above with respect to arguments 1-5 (7) that the prior art combination Cannon in view of Lee and Richey and further in view of Sharper fails to teach "assessing, using the computer-based system, a fee against the merchant for each disputed transaction involving the merchant that exceeds the predetermined threshold ratio, in response to the merchant's ratio being at least equal to the predetermined threshold ratio, wherein the fee is not assessed to all disputed transactions, and wherein the fee is set based on a monetary value of each of the disputed credit transactions of the merchant that exceeds the predetermined threshold ratio," as recited by independent claim 1 (emphasis added) and as similarly recited by independent claims 14 and 20. (8) that dependent claims 3-5, 12, 16-19 and 22-23 depend from claims 1, 14 and 20 and are therefore allowable due to the deficiencies of the rejections as cited above with respect to arguments 1-5.

In response to argument (1) through (2) and (4) and (6), according to MPEP 2145 (IV), one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. In re Keller, 642 F.2d 413, 208

USPQ 871 (CCPA 1981); In re Merck & Co., Inc., 800 F.2d 1091, 231 USPQ 375 (Fed.

Cir. 1986).

In response to argument (3) that Lee teaches away from a threshold ratios for

levying fines, the examiner respectfully disagrees. The prior art Lee was cited against

the limitation "assessing...a fee...for each disputed transaction", and "in response to the

merchant's ratio being at least equal to the predetermined threshold ratio" which Lee

teaches explicitly.

Cannon teaches in at least:

Col FIG. 14; Col 7 lines 32-67:

    Referring now to FIG. 14, a WWW page 210 is displayed
    on client station 16 when user clicks Security/Fraud
    Exceptions 62 hyperlink. WWW page 210 includes the
    following hyperlinks to reports corresponding to the
    security/fraud exceptions category: **Credits Exceeding
    Sales Exception Report 212, Daily Average Ticket
    Variance (Signed Norm) 214, Daily Average Ticket
    Variance-2 216, Daily Credit Report 218,** Daily
    Declined/Referred Rate 220, Daily Exception NRPT
    Report (DER) 222, Daily Licensed Exception NRPT 224,
    Daily Top Depositor 226, Keyed vs. Scanned Exception
    report 228, Monthly Retrieval report 230, New Account
    Tracking report 232, **Semi Monthly Chargeback report
    (15th) 234, Semi Monthly Chargeback report (30th) 236,
    Single Cardholder Sales/Credits 238, Telemarketing
    Exception report 240, Weekly Multi Sales/Credit Small
    Cardholder 242, and Weekly Activity Client Tracking
    report 244.**

    (48)   The credits exceeding sales exception report
    highlights all merchants whose **dollar amount of
    credits on any given day exceeds the amount of sales
    for that day by a given amount and percentage.**
    Excessive credits create immediate risks and need to
    be investigated immediately.

(49)   The daily average ticket variance (signed norm)
report is for newly signed/depositing merchants. This
**report highlights those merchants whose actual average
ticket variance exceeds their signed average ticket by
a predefined percentage.**

(50)   The daily average ticket variance-2 provides a
listing of merchants who have average ticket
variances. It provides a comparison of the merchant's
three month average ticket to the daily average ticket
and annual signed sales to actual activity. Merchants
listed should be reviewed for invalid sales,
factoring, etc.

(51)   **The daily credit report calculates a merchant's
credit ratio (credits divided into sales) and
highlights those which are considered to be excessive.**
Col 8 lines 29-39:

The monthly retrieval report identifies merchants with
a large percentage of retrievals. Merchants who appear
in this report are considered highly suspect as their
customers appear unfamiliar with the transactions for
which they are billed and need the media in order to
validate the transaction.

(58)   The new account tracking report is segmented
into three components depending upon how long the
merchant has been on the base. This report will
highlight merchants whose actual sales volume for a
period exceeds expectations for that period.

Lee teaches explicitly:

Para 0019:

[0019] <u>In addition to paying a fee for each
chargeback, issuing banks can levy fines on merchants
having too many chargebacks.</u> Typically 1.5-3.0% of the
merchant's chargeback volume, such fines can range
from a few hundred dollars per month, to $10,000 or
even $100,000 per month, **with fines escalating higher
as chargebacks continue unabated.**

Note that the individual fees accessed are a separate fee from the fines for
merchants who exceed the range. The prior art Cannon individually also teaches
that levels are set with respect to vendor chargebacks. Lee teaches levying fines
to defray chargeback volumes cost. Lee does not teach away from threshold
fines, but teaches explicitly that higher levels of chargebacks generate higher
fines.

The examiner maintains the rejections.

In response to argument (5) that the combination fails to teach "assessing, using
the computer-based system, a fee against the merchant for each disputed transaction
involving the merchant that exceeds the predetermined threshold ratio, in response to
the merchant's ratio being at least equal to the predetermined threshold ratio, wherein
the fee is not assessed to all disputed transactions, wherein the fee is set based on a
monetary value of each of the disputed credit transactions of the merchant that exceeds
the predetermined threshold ratio," as recited by independent claim 1 (emphasis added)
and as similarly recited by independent claims 14 and 20", The examiner respectfully
disagrees.

... assessing, using the computer-based system, a fee against the merchant for
each disputed transaction involving the merchant that exceeds the predetermined
threshold ratio (see Lee para 0019)

> [0019] **In addition to paying a fee for each**
> **chargeback, issuing banks can levy fines on merchants**
> **having too many chargebacks.** Typically 1.5-3.0% of the
> merchant's chargeback volume, such fines can range

> from a few hundred dollars per month, to $10,000 or
> even $100,000 per month, **with fines escalating higher
> as chargebacks continue unabated.**

Note that Lee teaches a fee for each chargeback and a fine that wherein the

transactions exceed a threshold, in that "having to many chargebacks" implies a

threshold in order to determine "to many"

> *...wherein the fee is not assessed to all disputed transactions,...*

Note that "fines are only accessed for "to many", which implies if there are less

than "to many" that a fine is not accessed for all disputed transactions. The

Combination further teaches:

> Richey teaches:

> Col 6 lines 45-67; Col 7 lines 1-8:

> Optionally, when returning transactions as part of the
> RFI response, the online dispute resolution system 10
> may highlight transactions that are tied to
> authorization-related chargebacks that are (1) below
> **floor limit and was listed on the exception file; (2)
> in excess of the floor limit and authorizations were
> not obtained; and** (3) related to a present referral.
> Other transactions may also be highlighted if such
> transactions are tied to all chargeback types that (1)
> were previously or, are currently being disputed; and
> (2) relate to a credit which was previously given when
> there was or was not a corresponding transaction. (note
> threshold)

> (25)   **For POS check transactions returned as part of
> the RFI response, the online dispute resolution system
> 10 may also provide the following information: check
> number, transit routing number, transit time, POS
> condition code, and check settlement code. (note
> individual charges)**

(26)   At 54, the issuer takes appropriate actions
based on the RFI response. The issuer may perform a
number of different actions. For example, the issuer
may search for additional, related credit
transactions. The issuer may further view transaction
details relating to the original transaction as well
as the additional, related transactions and query any
exception file related thereto. The transactions may
be viewed in the form of substitute drafts, digital
receipts and case history summaries. Upon reviewing
the transactions, the issuer may then initiate one or
more of the following actions including (a) request
for copy, (b) attempt to resolve, (c) chargeback, (d)
pre-compliance and (e) good faith collection.
Optionally, RFI responses are deleted at a system-wide
level if no action is taken after a set number of
days.

Col 10 lines 34-49; FIG. 7:

If a resolution cannot be attained in the RFI or ATR
stages, the information gathered can be used to
initiate a dispute with respect to the disputed
transaction through the online dispute resolution
system 10. The online dispute resolution system 10
provides users with a simplified process for creating
chargeback and representment transactions as well as a
way of providing information and/or supporting
documentation. The simplification is based on seven
new dispute groups and the ability of the online
dispute resolution system 10 to intuitively guide the
user through the underlying reason codes for each
group.

(51)   FIG. 7 is a table listing the various dispute
groups and their underlying reason codes. The new
dispute groups include (1) non-receipt of information,
(2) authorization error, (3) processing error, (4)
non-receipt of goods or services, (5)
canceled/returned, (6) quality, and (7) fraud.

Col 16 lines 40-Col 17 lines 10:

The analyst may make one of five possible rulings
including: in favor of the issuer, **in favor of the
acquirer, split decision, issuer withdrawal, and**

acquirer withdrawal. The ruling may be one of the
following, including, chargeback is not valid,
chargeback past time, missing required documentation,
issuer's chargebacks valid, rule violation occurred,
rule violation did not occur, **committee split the
decision, cardholder dispute unreasonable, cardholder
dispute reasonable, no third party opinion, case
withdrawn by acquirer, case withdrawn by** issuer and
other.

(96)   Comments are included to describe the reason
for the ruling. Once a ruling has been made by the
analyst, **both parties to a dispute are notified of the
decision and the fees, penalties and fines levied, if
any. Amounts and fees may be divided between the
parties to the dispute.** The analyst has the discretion
to adjust these amounts. Withdrawn cases may be
charged to the withdrawing party. In one exemplary
embodiments, the online dispute resolution system 10
only permits each party to see its own ruling. Parties
to the dispute are responsible for notifying their
respective cardholder and merchant of the ruling.

(97)   Appeal

(98)   The losing party to the dispute may appeal for
a re-review of the case within in a specified time
period and case dollar value. For example, a ruled
case may be appealed within 45 days of the ruling
notification date and only if the case amount is equal
to or greater than a preset amount, such as, $5000.
The online dispute resolution system 10 is capable of
maintaining the appeal qualification conditions, such
as, the specified time period for appeal and case
dollar value, for each decided case. The online
dispute resolution system 10 permits a losing party to
re-file either arbitration or compliance cases as an
appeal. Furthermore, the online dispute resolution
system 10 maintains a history of the dispute including
the identity of the analyst who decides the dispute.
If a ruling is appealed, the online dispute resolution
system 10 is capable of automatically assigning the
appealed case to the same analyst, to the extent
possible, who handled the original dispute.

Col 21 lines 58-67:

Another category of reports that are also available to
users of the online dispute resolution system 10
includes, for example, case filing and ruling reports
that provide users statistical information for all
their cases that are pending a ruling or are closed;
arbitration, compliance and direct compliance dispute
resolution summary and detail reports for closed
arbitration and compliance cases reporting
information, such as, percentage of withdrawals, wins,
losses, rejects, and splits for issuers and acquirers,
fees assessed for the cases and a comparison of
system-wide performance;

Col 22 lines 25-44:

  The online dispute resolution system 10 also produces
reports on service usage and productivity. Service
usage and productivity reports provide information to
evaluate and improve operator productivity and
performance. Cardholder and merchant activity is
available in this set of reports and a summary of fees
and charges assessed upon dispute resolution. These
reports include, for example, operator and group
productivity reports that provide counts for worked
items (e.g. requests for copy, transactions initiated,
closed, fulfilled, completed questionnaires, merchants
serviced/terminated, etc.) by operator or group of
operators; cardholder activity report that provides
detail and summary activity by cardholder; merchant
activity report that provides detail and summary
activity by merchant; service fees and charges report
that provides detail and summary counts and amounts
for all fees and charges by dispute transaction type;
and system performance report that supports system
performance tuning by providing minimum, average and
maximum response times for each service action.

Note that the prior art is directed toward disputes with respect to chargebacks

and that determination is made as to who pays the charges and fees. This implies that

involving the merchant that fees are not accessed for all disputed transactions. The

examiner maintains the rejections.

In response to arguments (6) through (8) see response above. The rejections

are maintained.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

5.   This application currently names joint inventors. In considering patentability of

the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g)

prior art under 35 U.S.C. 103(a).

6.   **Claims 1-2, 6-11, 13 and 21 are rejected under 35 U.$.C. 103(a) as being**

unpatentable over US Patent 6,154,729 to Cannon (Cannon) in view of US Patent

Publication 200210099649 by Lee (Lee) and further in view of US Patent No.

7,356,516 B2 Richey et al (Richey).

In reference to Claim 1:

Cannon teaches:

(Currently Amended) A method for processing credit transactions, comprising:

identifying by a computer-based system, ...a merchant with a disputed credit transaction

in a period of time, wherein a predetermined threshold ratio of disputed credit

transactions to total credit transactions is stored for the period of time; (see Col 3, lines

45-65, note that merchants with 'excessive' chargebacks are listed on the report);

determining by the computer-based system a number of the disputed credit transactions

and a number of credit transactions involving the merchant in the period of time (see

Col 3, lines 45-65, note that the ratio calculated for the purposes of the report is that of

chargebacks to transactions); determining by the computer- based system, a ratio of the

number of disputed credit transactions to the number of credit transactions for the

merchant (see Col 3, lines 45-65, note that the ratio calculated for the purposes of the

report is that of chargebacks to transactions);

Cannon suggest but does not explicitly teach:

...assessing by the computer-based system, a fee against the merchant for each

disputed transaction involving the merchant that exceeds the predetermined threshold

ratio, in response to the merchant's ratio being at least equal to the predetermined

threshold ratio...; and wherein the fee is set based on a monetary value of each of the

disputed credit transactions of the merchant that exceeds the predetermined threshold

ratio((Cannon) in at least Col 3 lines 28-67, Col 4 lines 1-16, 43-55, Col 7 lines 48-67,

Col 8 lines 29-39, 45-49; note that the prior art teaches credit exceed credit risk for

chargebacks and explicitly teaches information provides chargebacks as a percentage

of sales which fairly suggest that the merchants sales exception report incorporates

merchant exceeding merchant's ratio)

Cannon does not explicitly teach:

...wherein the fee is not assessed to all disputed transactions...

Lee teaches:

... for assessing a fee ((Lee) para 0019),... assessing by the computer-based

system, a fee against the merchant for each disputed transaction ((Lee) para 0019 line

1) involving the merchant that exceeds the predetermined threshold ratio ((Lee) para

0019), in response to the merchant's ratio being at least equal to the predetermined

threshold ratio (see par 19, note that both a fee per chargeback and a fine for too many

chargebacks (i.e. typically 1.5-3% of volume) are both taught. The combination of these

methods of penalizing chargebacks fairly suggests charging a fee for each transaction

that exceeds a threshold in so far as the fee per charge back suggests the 'for each'

component and the fine for having too many suggests applying the fee above a

threshold) ;...

Richey teaches:

...for assessing a fee ((Richey) in at least Col 5 lines 28-33, Col 16 lines 50-58,

Col 18 lines 54-59, Col 21 lines 60-67, Col 22 lines 28-41) ,... ...wherein the fee is not

assessed to all disputed transactions,((Richey) in at least FIG. 7; Col 6 lines 45-67, Col

7 lines 1-8, Col 10 lines 34-49, Col 16 lines 40-Col 7 lines 10, Col 21 lines 55-67, Col 22

lines 25-44), wherein the <u>fee</u> is set based on <u>monetary</u> value of each of the disputed

credit transactions of the merchant.((Richey) in at least FIG. 5, FIG. 7; Col 5 lines 38-33,

Col 6 lines 39-55, Col 7 lines 4-5, 30-40, Col 10 lines 35-50, Col 16 lines 50-58, Col 18

lines 55-59, Col 21 lines 60-67, Col 22 lines 28-44)...

　　　Both Cannon and Lee are directed toward management of transactions. Lee

teaches the motivation of providing an incentive for merchants to reduce chargebacks in

order to reduce cost and risk. It would have been obvious to one having ordinary skill in

the art at the time of Applicant's invention to have provided Cannon with the fee and fine

features of Lee in order to have provided merchants with an incentive to take action to

reduce chargebacks as taught implicitly by Lee since fines escalate if chargebacks

continue unabated.

　　　The combination and Richey are explicitly directed toward transaction disputes.

Richey teaches itemizing information with respect to a dispute in order to determine the

legitimacy of the disputed transaction (see in at least Col 5 lines 5-10). The prior art

provides some teaching, suggestion, or motivation in the prior art that would have led ne

of ordinary skill to modify (applying a known technique to a known device (method, or

product) ready for improvement to yield predictable results) the prior art reference or to

combine prior art reference teachings to arrive at the claimed invention. See MPEP §

214 3

In reference to Claim 2:

The combination teaches:

(Previously Presented) The method of claim 1 (see rejection of claim 1 above), wherein the period of time comprises thirty days (see Cannon Col 3, lines 35-45 and Col 4, lines 43-57, note the teaching of a monthly reporting cycle).

In reference to Claim 6:

The combination teaches:

(Currently amended) The method of claim 1 (see rejection of claim 1 above), further comprising: establishing, by the computer based system, the predetermined threshold ratio based on a factor comprising an average transaction volume of the merchant (See Cannon Col 3, lines 45-55 and Col 4, lines 43- 57, note that ratio relates chargebacks to transactions. As such, it is fairly suggested that establishment of the ratio is based upon the transaction volume of the merchant since the volume is the factor by which the standard for 'excessive' is defined) (see rationale supporting obviousness and motivation to combine of claim 1 above)

In reference to Claim 7:

The combination teaches:

(Previously Presented) The method of claim 1 (see rejection of claim 1 above), further comprising: determining, by the computer based system, a number of time periods in which the ratio of the number of disputed credit transactions to the number of credit transactions for the merchant is at least equal to the predetermined threshold value (see Lee par 19- 21), wherein a threshold number of time periods is stored in

which the ratio of disputed credit transactions to total credit transactions may exceed the predetermined threshold ratio (see Lee in at least para 0019; note that Lee teaches the after months of escalating fines, the merchant may lose the privilege of receiving payment through credit card issuers. As such, this fairly teaches a second threshold based upon the length of time the merchant exceeds the predetermined threshold. Note further that a second threshold based on time is also an obvious duplication of the threshold taught by Cannon above, particularly in view of the time based penalty of Lee); and further assessing, by the computer-based system, the chargeback fee against the merchant only for each disputed transaction that exceeds the predetermined threshold ratio, in response to the ratio being at least equal to the predetermined threshold ratio for the period of time and the number of time periods for the merchant is at least equal to the threshold number of time periods (see Lee para 19, note that penalizing a merchant with fines is known and when combined with the period of time measure taught by Lee fairly suggests charging a fine based upon the number of time periods the merchant exceeds the threshold).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

In reference to Claim 8:

The combination teaches:

(Original) The method of claim 7 (see rejection of claim 7 above), wherein the threshold number of time periods is greater than one (see Lee par 21, note that the second threshold of Lee is reached after 'months' of escalating fines).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

In reference to Claim 9:

The combination teaches:

(Currently amended) The method of claim 8 (see rejection of claim 8 above), further comprising, before the assessing: generating, by the computer-based system, a notice for transmission to the merchant in response to the number of time periods for the merchant is greater than zero and less than the threshold number of time periods, the notice including: the ratio of the number of disputed credit transactions to the number of credit transactions for the merchant, the predetermined threshold ratio, the number of time periods for the merchant and the threshold number of time periods (see Lee par 19-21, note that before implementing the time based penalty, the merchant was levied a series of fines, fairly suggesting the generation and transmission of a notice. (see rationale supporting obviousness and motivation to combine of claim 1 above)

In reference to Claim 10:

The combination teaches:

(Previously Presented) The method of claim 9 (see rejection of claim 9 above), further comprising: transmitting, by the computer-based system, the notice to the merchant (see Lee par 19-21, note that before implementing the time based penalty, the merchant was levied a series of fines, fairly suggesting the generation and transmission of a notice to the merchant). (see rationale supporting obviousness and motivation to combine of claim 1 above)

In reference to Claim 11:

The combination teaches:

(Previously Presented) The method of claim 8 (see rejection of claim 8 above), further comprising: generating, by the computer-based system a notice for transmission to the merchant when the number of time periods for the merchant being greater than zero and less than the threshold number of time periods, the notice including at least proposed business solution for reducing the number of disputed credit transactions involving the merchant (see Lee par 19-21, note that before implementing the time based penalty, the merchant was levied a series of fines, fairly suggesting the generation and transmission of a notice. Note that the contents of the claimed notice have been considered, but are non-functional descriptive material in so far as the notice could contain any material and the claimed invention would still operate the same. As such, the contents of the notice have not been given patentable weight so as to distinguish Applicant's claimed invention from the prior art). (see rationale supporting obviousness and motivation to combine of claim 1 above)

In reference to Claim 13:

The combination teaches:

(Previously Presented) The method of claim 7 (see rejection of clam 7 above), wherein the threshold number of time periods comprising comprises a threshold number of consecutive time periods (see Lee par 21, note that the second threshold of Lee is reached after 'months' of escalating fines).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

In reference to Claim 21:

The combination teaches:

(Previously presented) The method of claim 1 (see rejection of claim 1 above), wherein the predetermined threshold ratio is lower for higher value transactions ((Lee) para 0127; wherein Le teaches selecting profiles such that profiles are associated measures above certain thresholds, para 0343 wherein the prior art teaches "different rules" with lower threshold score; suggesting variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations are predictable to one of ordinary skill in the art)

(see rationale supporting obviousness and motivation to combine of claim 1 above)

7.   Claims 3-5, 12, 14, 16-20 and 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable Cannon in view of US Patent Applicant Publication 2002/0099649 by Lee and US Patent No. 7,356,516 B2 Richey et al (Richey), as applied to claim 1 above with respect to claims 3-5; as applied to claims 1 and 7 above with respect to claim 12; and in further view of US Patent Application Publication 2004/0030644 to Sharper (Sharper).

In reference to Claim 3:

The combination teaches:

(Currently amended) The method of claim 1 (see rejection of claim 1 above)...
The combination does not explicitly teach:

...wherein the predetermined threshold ratio comprises three percent.

Sharper teaches:

...wherein the predetermined threshold ratio comprises three percent (see para 10, note that a limit may be set at 1-3%) It would have been obvious to one having ordinary skill in the art at the time of Applicant's invention to have provided Cannon in view of Lee with the particular threshold level taught by Sharper in order to have limited the percentage of chargebacks allowed to merchants as taught explicitly by Sharper (see para 10).

In reference to Claim 4:

The combination suggest/teaches:

(Currently Amended) The method of claim 1 (see rejection of claim 1 above), further comprising: establishing, by the computer-based system, the predetermined threshold ratio based on a factor comprising: an industry category including the merchant. ((Lee) para 0346)

Sharper teaches:

...establishing the predetermined threshold ratio based on a factor comprising an industry category including the merchant (see par 11, note that chargeback characteristics vary from industry to industry. A ratio based on industry category is thus fairly suggested to accommodate the differences between industries). It would have been obvious to one having ordinary skill in the art at the time of Applicant's invention to have provided Cannon in view of Lee with that industry differentiation of Sharper in order to have matched the risk of an industry with the level of fine as taught implicitly by Sharper since Sharper teaches the incidence of chargebacks varies across industries.

In reference to Claim 5:

The combination teaches:

(Previously Presented) The method of claim 4 (see rejection of claim 4 above),
wherein the industry category comprising comprises a standard industrial classification
code (see Lee para 101, note that the transaction summary variables include SIC
codes, thus fairly suggesting their use in identifying the industry of the transaction).
(see rationale supporting obviousness and motivation to combine of claim 4 above)

In reference to Claim 12:

The combination teaches:

(Original) The method of claim 7 (see rejection of claim 7 above), wherein the
threshold number of time periods is based on an industry category including the
merchant (see par 11, note that chargeback characteristics vary from industry to
industry. A ratio based on industry category is thus fairly suggested to accommodate
the differences between industries).
(see rationale supporting obviousness and motivation to combine of claim 4 above)

In reference to Claim 14:

Cannon teaches:

(Currently Amended) A method comprising: calculating, by a computer-based
system, for assessing a fee, a ratio of disputed credit transactions to total credit
transactions (see Cannon, Col 3, lines 45-55, note that the ratio calculated for the
purposes of the report is that of chargebacks to transactions) for each of a plurality of
industry categories for a previous period of time (see Sharper, para 11, note that

chargeback characteristics vary from industry to industry. A ratio based on industry

category is thus fairly suggested to accommodate the differences between industries);

determining, by: the computer-based system a first threshold ratio for a first of the

industry categories based on a first factor comprising said calculating (see Cannon, Col

lines 3, lines 45-55 in combination with Sharper para 11, note that a threshold ratio is

fairly suggested by the teaching that vendors with 'excessive' chargeback ratios are

listed. The suggestion is fairly made by the need for there to be a measure i.e. the

predetermined threshold ratio for determining what is 'excessive', note further the

industry discussion of Sharper above; see in at least para 0019; note that multiple

parameters may utilized to increase security and control behavior) determining by: the

computer-based system, second threshold ratio, lower than the first threshold ratio, for a

second of the industry categories based on the first factor, the second of the industry

categories having a lower ratio of disputed credit transaction to total credit transactions

in the previous period of time than the first of the industry categories (see Cannon, Col

3, lines 4,5-55 in combination with Sharper par 11, note that a plurality of threshold

ratios is fairly suggested by the combination of these teachings since Sharper teaches

that chargeback characteristics vary from industry to industry) determining a ratio of

disputed credit transactions to total credit transactions for a merchant ((Cannon) Col 3

lines 4,5-65) in the first of the industry categories ((Lee) para 0019, para 0346; wherein

banks levy fines for merchants having two many chargeback and further teaches

product, customer, business and merchant are risk determinants; ((Sharper) para 0011;

wherein chargeback vary from industry to industry which would make obvious that ratio

would be relevant to industry); and assessing, by the computer-based system, a fee in

response to the ratio of disputed credit transactions to total credit transactions is at least

equal to the first threshold ratio ((Lee) para 0019; ((Richey) in at least FIG. 5, FIG. 7;

Col 5 lines 38-33, Col 6 lines 39-55, Col 7 lines 4-5, 30-40, Col 10 lines 35-50, Col 16

lines 50-58, Col 18 lines 55-59, Col 21 lines 60-67, Col 22 lines 28-44) <u>wherein the fee</u>

<u>is not assessed to all disputed transactions</u> ((Richey) in at least FIG. 7; Col 6 lines 45-

67, Col 7 lines 1-8, Col 10 lines 34-49, Col 16 lines 40-Col 7 lines 10, Col 21 lines 55-

67, Col 22 lines 25-44); and wherein the <u>fee</u> set based on a <u>monetary</u> value of each of

the disputed credit transactions of the merchant <u>that exceeds the second threshold ratio</u>

((Cannon) in at least Col 7 lines 48-67, Col 8 lines 29-39, 45-49; (Richey) in at least

FIG. 5, FIG. 7; Col 5 lines 38-33, Col 6 lines 39-55, Col 7 lines 4-5, 30-40, Col 10 lines

35-50, Col 16 lines 50-58, Col 18 lines 55-59, Col 21 lines 60-67, Col 22 lines 28-44;

Richey teaches itemizing information with respect to a dispute in order to determine the

legitimacy of the disputed transaction (see in at least Col 5 lines 5-10).

(See rationale supporting obviousness and motivation to combine of claims 1 and 4

above).

<u>In reference to Claim 16</u>:

The combination teaches:

        (Previously presented) The method of claim 14 (see rejection of claim 14 above),

wherein the fee is assessed for each disputed credit transaction that exceeds the first

threshold ratio (see Lee par 19, note that both a fee per chargeback and a fine for too

many chargebacks are both taught. The combination of these methods of penalizing

chargebacks fairly suggests charging a fee for each transaction that exceeds a

threshold in so far as the fee per charge back suggests the 'for each' component and

the fine for having too many suggests applying the fee above a threshold). (see

rationale supporting obviousness and motivation to combine of claims 1 and 4 above).

In reference to Claim 17:

The combination teaches:

(Previously Presented) The method of claim 14 (see rejection of claim 14 above),

further comprising determining a first threshold number of time periods in which the ratio

of disputed credit transactions to total credit transactions for a merchant in the first of

the industry categories exceeds the first threshold ratio, based on said calculating (see

Lee par 19-21, note that Lee teaches the after months of escalating fines, the merchant

may lose the privilege of receiving payment through credit card issuers. As such, this

fairly teaches a second threshold based upon the length of time the merchant exceeds

the predetermined threshold. Note further that a second threshold based on time is also

an obvious duplication of the threshold taught by Cannon above, particularly in view of

the time based penalty of Lee, see also Sharper par 11); and determining a second

threshold number of time periods, lower than the first threshold number of time periods,

in which the ratio of disputed credit transactions to total credit transactions for a

merchant in the second of the industry categories may exceed the second threshold

ratio, based on said calculating (see Lee par 19-21 and Sharper par 11).

(see rationale supporting obviousness and motivation to combine of claims 1 and 4

above)

In reference to Claim 18:

The combination teaches:

(Previously Presented) The method of claim 17 (See rejection of claim 17 above), further comprising: determining, by the computer-based system, a ratio of disputed credit transactions to total credit transactions for the merchant for a plurality of previous time periods (see Cannon Col 3, lines 45-55, note that the ratio calculated for the purposes of the report is that of chargebacks to transactions and Lee para 18-21); determining, by the computer-based system, a number of time periods in which the ratio of disputed credit transactions to total credit transactions of the merchant is greater than the first threshold ratio (see Cannon Col 3, lines 45-55, note that the ratio calculated for the purposes of the report is that of chargebacks to transactions and Lee par 18-21); and assessing, by the computer-based system, a fee in response to the merchant's current ratio of disputed credit transactions to total credit transactions is at least equal to the first threshold ratio and the number of time periods for the merchant is at least equal to the first threshold number of time periods (see Lee see Lee par 19 in combination with 21, note that penalizing a merchant with fines is known and when combined with the period of time measure taught by Lee fairly suggests charging a fine based upon the number of time periods the merchant exceeds the threshold)

(see rationale supporting obviousness and motivation to combine of claims 1 and 4 above)

In reference to Claim 19:

The combination teaches:

(Previously Presented) The method of claim 18 (see rejection of claim 18 above), further comprising: generating a notice for transmission to the merchant in response to the merchant's current ratio of disputed credit transactions to total credit transactions is at least equal to the first threshold ratio and the number of time periods for the merchant less than the first threshold number of time periods, including a predetermined period of time in which the merchant must lower their ratio of disputed credit transactions to total credit transactions to avoid chargeback fees (see Lee par 19-21, note that before implementing the time based penalty, the merchant was levied a series of fines, fairly suggesting the generation and transmission of a notice. Note that the contents of the claimed notice have been considered, but are non-functional descriptive material in so far as the notice could contain any material and the claimed invention would still operate the same. As such, the contents of the notice have not been given patentable weight so as to distinguish Applicant's claimed invention from the prior art).

(see rationale supporting obviousness and motivation to combine of claims 1 and 4 above)

In reference to Claim 20:

The combination teaches:

(Currently Amended) A non-transitory computer-readable medium having stored thereon sequences of instruction, the sequences of instruction including instruction which, if executed by a computer-based system, causes the computer-based system to perform operations comprising: determine, by the computer-based system, an average ratio of disputed credit transactions to total credit transactions (see Cannon, Col 3, lines

45-55, note that the ratio calculated for the purposes of the report is that of chargebacks

to transactions) for each of a plurality of industry categories (see Sharper, par 11, note

that chargeback characteristics vary from industry to industry. A ratio based on industry

category is thus fairly suggested to accommodate the differences between industries);

generate, by the computer-based system, a threshold ratio of disputed credit

transactions to total credit transactions ratio for a first of the industry categories based

on at least a first factor comprising an automatically determined average ratio of

disputed credit transactions to total credit transactions (see Cannon, Col 3, lines 45-55

in combination with Sharper para 11, note that a threshold ratio is fairly suggested by

the teaching that vendors with 'excessive' chargeback ratios are listed. The suggestion

is fairly made by the need for there to be a measure -i.e. the predetermined threshold

ratio-for determining what is 'excessive', note further the industry discussion of Sharper

above) determine, by the computer-based system, a ratio of disputed credit transactions

to total credit transactions for a merchant in the first of the industry categories (see

Cannon Col 3, lines 45-55, in combination with Sharper par 11); and assess, by the

computer- based system, a fee to the merchant in response to in response to the

merchant's ratio of disputed credit transactions to total credit transactions is greater than

the threshold ratio of disputed credit transactions to total credit transactions, the fee

applied to each disputed transaction involving the merchant that causes the merchant to

exceed the threshold ratio of disputed credit transactions to total credit transactions

(Lee see para 19, note that both a fee per chargeback and a fine for too many

chargebacks are both taught. The combination of these methods of penalizing

chargebacks fairly suggests charging a fee for each transaction that exceeds a

threshold in so far as the fee per charge back suggests the 'for each' component and

the fine for having too many suggests applying the fee above a threshold), <u>wherein the</u>

<u>fee is not assessed to all disputed transactions</u>, ,((Richey) in at least FIG. 7; Col 6 lines

45-67, Col 7 lines 1-8, Col 10 lines 34-49, Col 16 lines 40-Col 7 lines 10, Col 21 lines

55-67, Col 22 lines 25-44), <u>and wherein the fee is set based on a monetary value of</u>

<u>each of the disputed credit transactions of the merchant that exceeds the predetermined</u>

<u>threshold ratio</u> ((Cannon) in at least Col 3 lines 28-67, Col 4 lines 1-16, 43-55, Col 7

lines 48-67, Col 8 lines 29-39, 45-49; note that the prior art teaches credit exceed credit

risk for chargebacks and explicitly teaches information provides chargebacks as a

percentage of sales which fairly suggest that the merchants sales exception report

incorporates merchant exceeding merchant's ratio; (Lee) see para 0019, note that both

a fee per chargeback and a fine for too many chargebacks (i.e. typically 1.5-3% of

volume) are both taught. The combination of these methods of penalizing chargebacks

fairly suggests charging a fee for each transaction that exceeds a threshold in so far as

the fee per charge back suggests the 'for each' component and the fine for having too

many suggests applying the fee above a threshold)

(see rationale supporting obviousness and motivation to combine of claims 1 and 4

above).

<u>In reference to Claim 22</u>:

The combination teaches:

(Currently Amended) The method of claim 14 (see rejection of claim 14 above), wherein the threshold ratios are lower for higher value transactions ((Lee) para 0127; wherein Lee teaches selecting profiles such that profiles are associated measures above certain thresholds, para 0343 wherein the prior art teaches "different rules" with lower threshold score; suggesting variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations are predictable to one of ordinary skill in the art)

(see rationale supporting obviousness and motivation to combine of claim 1 above)

In reference to Claim 23:

The combination teaches:

(Previously Presented) The medium of claim 20 (see rejection of claim 20 above), wherein the threshold ratio is lower for higher value transactions ((Lee) para 0127; wherein Le teaches selecting profiles such that profiles are associated measures above certain thresholds, para 0343 wherein the prior art teaches "different rules" with lower threshold score; suggesting variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations are predictable to one of ordinary skill in the art)

(see rationale supporting obviousness and motivation to combine of claim 1 above)

Conclusion

8.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARY GREGG whose telephone number is (571)270-5050. The examiner can normally be reached on 4/10.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, James Trammell can be reached on 5712726712. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

9.   Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Shahid R Merchant/
Primary Examiner, Art Unit 3694

/M. G./
Examiner, Art Unit 3694